

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MOLLY MEYERS,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of the
Social Security Administration,

Defendant.

CASE NO. 10-cv-5743 BHS

REPORT AND RECOMMENDATION
ON STIPULATED MOTION TO
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrate Judge Rule MJR 4(a)(4), and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the parties' stipulated motion to remand the matter to the administration for further consideration. (ECF No. 22.)

After reviewing the parties' stipulated motion and the remaining record, the undersigned recommends that the Court grant the parties' motion, and reverse and remand this matter to the Commissioner.

1 On remand, based on the parties' stipulation, this Court recommends that the
2 Administrative Law Judge hold a new hearing and issue a new decision. The ALJ should:

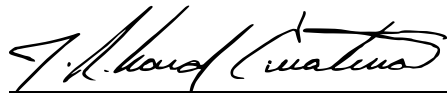
- 3 • Further evaluate the severity of the claimant's sleep apnea; and
4 • Further evaluate the treating source opinions of Pamela L. Alvarez, M.D., and
5 Amelito Malapria, M.D. and the third party statements.
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7 This Court further recommends that the ALJ should take any other actions necessary to
8 develop the record. In addition, Plaintiff should be allowed to submit additional evidence and
9 arguments to the ALJ on remand.

10 On proper application, reasonable attorney fees should be awarded pursuant to the Equal
11 Access to Justice Act, 28 U.S.C. § 2412.

12 Given the facts and the parties' stipulation, the Court recommends that the District Judge
13 immediately approve this Report and Recommendation and order the case be **REVERSED** and
14 **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).
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16 DATED this 11th day of May, 2011.

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19 J. Richard Creatura
20 United States Magistrate Judge
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